

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

BRANDON RICHARDS,

Petitioner,

v.

FEDERAL BUREAU OF PRISONS,

Respondent.

Case No. 2:15 cv 13298

UNITED STATES DISTRICT COURT JUDGE
GERSHWIN A. DRAIN

UNITED STATES MAGISTRATE JUDGE
ELIZABETH A. STAFFORD

OPINION AND ORDER SUMMARILY DISMISSING PETITION FOR WRIT OF HABEAS CORPUS [1]

I. INTRODUCTION

Petitioner Brandon Richards is a federal prisoner residing at a residential reentry center in Milan, Michigan. He is scheduled to be released from the center on October 8, 2015.

Petitioner filed this action under 28 U.S.C. § 2241, asserting that on August 30, 2015, he was written an Incident Report for Refusal and Threatening with Bodily Injury by a staff member at the reentry center. As a result of the report, Petitioner claims that he was restricted to the center and was not allowed to continue employment he had obtained outside the center.

II. DISCUSSION

Petitioner filed his application for habeas relief under 28 U.S.C. § 2241. Section 2241 authorizes district courts to issue a writ of habeas corpus to a state or federal prisoner who is “in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C.

§ 2241(c)(3). Where a prisoner is challenging the fact or duration of his physical imprisonment and relief would require a determination that he is entitled to immediate release or a speedier release from that imprisonment, his sole federal remedy is a petition for writ of habeas corpus. *See Preiser v. Rodriguez*, 411 U.S. 475, 500 (1973). However, habeas corpus is not available to prisoners who are complaining only of the conditions of their confinement or mistreatment during their legal incarceration. *See Martin v. Overton*, 391 F.3d 710, 714 (6th Cir. 2004); *Lutz v. Hemingway*, 476 F. Supp. 2d 715, 718 (E.D. Mich. 2007).

Claims that challenge the conditions of a prisoner's confinement fall outside of the "core" of habeas corpus, *Nelson v. Campbell*, 541 U.S. 637, 643 (2004), and are not cognizable in a habeas action brought pursuant to 28 U.S.C. § 2241. *See Luedtke v. Berkebile*, 704 F.3d 465, 466 (6th Cir. 2013) ("§ 2241 is not the proper vehicle for a prisoner to challenge conditions of confinement."); *Hodges v. Bell*, 170 F. App'x 389, 393 (6th Cir. 2006). A federal inmate like Petitioner may, however, bring claims challenging the conditions of his confinement under *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971); *Richmond v. Schibana*, 387 F.3d 602, 605 (7th Cir. 2004) (federal prisoner's challenge to rules affecting his placement in community confinement cannot be brought under § 2241).

Although pro se litigants are treated to less stringent pleading formalities, courts still require such litigants to meet basic pleading standards. *Wells v. Brown*, 891 F.2d 591, 594 (6th Cir. 1989). Where, as here, claims about conditions of confinement are not cognizable in an action under § 2241, the district court must dismiss the habeas action without prejudice to allow the petitioner to raise his potential civil rights claims properly in a *Bivens* action. *Martin*, 391 F.3d at 714. Accordingly, the Court will dismiss the petition without prejudice.

III. CONCLUSION

Based upon the foregoing, the petition for writ of habeas corpus is **DISMISSED WITHOUT PREJUDICE**.

IT IS SO ORDERED.

Dated: September 29, 2015

/s/Gershwin A Drain
HON. GERSHWIN A. DRAIN
United States District Court Judge